

1 HOUSE BILL NO. 638
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee on Labor and Commerce
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Sullivan)

6 A BILL to amend and reenact § 56-585.5 of the Code of Virginia, relating to electric utilities; generation
 7 of electricity from renewable and zero carbon resources.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 56-585.5 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 56-585.5. Generation of electricity from renewable and zero carbon sources.**

11 A. As used in this section:

12 "Accelerated renewable energy buyer" means a commercial or industrial customer of a Phase I or
 13 Phase II Utility, irrespective of generation supplier, with an aggregate load over 25 megawatts in the prior
 14 calendar year, that enters into arrangements pursuant to subsection G, as certified by the Commission.

15 "Aggregate load" means the combined electrical load associated with selected accounts of an
 16 accelerated renewable energy buyer with the same legal entity name as, or in the names of affiliated
 17 entities that control, are controlled by, or are under common control of, such legal entity or are the names
 18 of affiliated entities under a common parent.

19 "Control" has the same meaning as provided in § 56-585.1:11.

20 "Falling water" means hydroelectric resources, including run-of-river generation from a combined
 21 pumped-storage and run-of-river facility. "Falling water" does not include electricity generated from
 22 pumped-storage facilities.

23 "Low-income qualifying projects" means a project that provides a minimum of 50 percent of the
 24 respective electric output to low-income utility customers as that term is defined in § 56-576.

25 "Phase I Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

26 "Phase II Utility" has the same meaning as provided in subdivision A 1 of § 56-585.1.

27 "Previously developed project site" means any property, including related buffer areas, if any, that
28 has been previously disturbed or developed for non-single-family residential, nonagricultural, or
29 nonsilvicultural use, regardless of whether such property currently is being used for any purpose.
30 "Previously developed project site" includes a brownfield as defined in § 10.1-1230 or any parcel that has
31 been previously used (i) for a retail, commercial, or industrial purpose; (ii) as a parking lot; (iii) as the site
32 of a parking lot canopy or structure; (iv) for mining, which is any lands affected by coal mining that took
33 place before August 3, 1977, or any lands upon which extraction activities have been permitted by the
34 Department of Energy under Title 45.2; (v) for quarrying; or (vi) as a landfill.

35 "Total electric energy" means total electric energy sold to retail customers in the Commonwealth
36 service territory of a Phase I or Phase II Utility, other than accelerated renewable energy buyers, by the
37 incumbent electric utility or other retail supplier of electric energy in the previous calendar year, excluding
38 an amount equivalent to the annual percentages of the electric energy that was supplied to such customer
39 from nuclear generating plants located within the Commonwealth in the previous calendar year, provided
40 such nuclear units were operating by July 1, 2020, or from any zero-carbon electric generating facilities
41 not otherwise RPS eligible sources and placed into service in the Commonwealth after July 1, 2030.

42 "Zero-carbon electricity" means electricity generated by any generating unit that does not emit
43 carbon dioxide as a by-product of combusting fuel to generate electricity.

44 B. 1. By December 31, 2024, except for any coal-fired electric generating units (i) jointly owned
45 with a cooperative utility or (ii) owned and operated by a Phase II Utility located in the coalfield region
46 of the Commonwealth that co-fires with biomass, any Phase I and Phase II Utility shall retire all generating
47 units principally fueled by oil with a rated capacity in excess of 500 megawatts and all coal-fired electric
48 generating units operating in the Commonwealth.

49 2. By December 31, 2045, except for biomass-fired electric generating units that do not co-fire
50 with coal, each Phase I and II Utility shall retire all other electric generating units located in the
51 Commonwealth that emit carbon as a by-product of combusting fuel to generate electricity.

52 3. A Phase I or Phase II Utility may petition the Commission for relief from the requirements of
53 this subsection on the basis that the requirement would threaten the reliability or security of electric service

54 to customers. The Commission shall consider in-state and regional transmission entity resources and shall
55 evaluate the reliability of each proposed retirement on a case-by-case basis in ruling upon any such
56 petition.

57 C. Each Phase I and Phase II Utility shall participate in a renewable energy portfolio standard
58 program (RPS Program) that establishes annual goals for the sale of renewable energy to all retail
59 customers in the utility's service territory, other than accelerated renewable energy buyers pursuant to
60 subsection G, regardless of whether such customers purchase electric supply service from the utility or
61 from suppliers other than the utility. To comply with the RPS Program, each Phase I and Phase II Utility
62 shall procure and retire Renewable Energy Certificates (RECs) originating from renewable energy
63 standard eligible sources (RPS eligible sources). For purposes of complying with the RPS Program from
64 2021 to 2024, a Phase I and Phase II Utility may use RECs from any renewable energy facility, as defined
65 in § 56-576, provided that such facilities are located in the Commonwealth or are physically located within
66 the PJM Interconnection, LLC (PJM) region. However, at no time during this period or thereafter may
67 any Phase I or Phase II Utility use RECs from (i) renewable thermal energy, (ii) renewable thermal energy
68 equivalent, or (iii) biomass-fired facilities that are outside the Commonwealth. From compliance year
69 2025 and all years after, each Phase I and Phase II Utility may only use RECs from RPS eligible sources
70 for compliance with the RPS Program.

71 In order to qualify as RPS eligible sources, such sources must be (a) electric-generating resources
72 that generate electric energy derived from solar or wind located in the Commonwealth or off the
73 Commonwealth's Atlantic shoreline or in federal waters and interconnected directly into the
74 Commonwealth or physically located within the PJM region; (b) falling water resources located in the
75 Commonwealth or physically located within the PJM region that were in operation as of January 1, 2020,
76 that are owned by a Phase I or Phase II Utility or for which a Phase I or Phase II Utility has entered into a
77 contract prior to January 1, 2020, to purchase the energy, capacity, and renewable attributes of such falling
78 water resources; (c) non-utility-owned resources from falling water that (1) are less than 65 megawatts,
79 (2) began commercial operation after December 31, 1979, or (3) added incremental generation
80 representing greater than 50 percent of the original nameplate capacity after December 31, 1979, provided

81 that such resources are located in the Commonwealth or are physically located within the PJM region; (d)
82 waste-to-energy or landfill gas-fired generating resources located in the Commonwealth and in operation
83 as of January 1, 2020, provided that such resources do not use waste heat from fossil fuel combustion; or
84 (e) biomass-fired facilities in operation in the Commonwealth and in operation as of January 1, 2023, that
85 (1) supply no more than 10 percent of their annual net electrical generation to the electric grid or no more
86 than 15 percent of their annual total useful energy to any entity other than the manufacturing facility to
87 which the generating source is interconnected and are fueled by forest-product manufacturing residuals,
88 including pulping liquor, bark, paper recycling residuals, biowastes, or biomass, as described in
89 subdivisions A 1, 2, and 4 of § 10.1-1308.1, provided that biomass as described in subdivision A 1 of §
90 10.1-1308.1 results from harvesting in accordance with best management practices for the sustainable
91 harvesting of biomass developed and enforced by the State Forester pursuant to § 10.1-1105, or (2) are
92 owned by a Phase I or phase II Utility, have less than 52 megawatts capacity, and are fueled by forest-
93 product manufacturing residuals, biowastes, or biomass, as described in subdivisions A 1, 2, and 4 of §
94 10.1-1308.1, provided that biomass as described in subdivision A 1 of § 10.1-1308.1 results from
95 harvesting in accordance with best management practices for the sustainable harvesting of biomass
96 developed and enforced by the State Forester pursuant to § 10.1-1105. Regardless of any future
97 maintenance, expansion, or refurbishment activities, the total amount of RECs that may be sold by any
98 RPS eligible source using biomass in any year shall be no more than the number of megawatt hours of
99 electricity produced by that facility in 2022; however, in no year may any RPS eligible source using
100 biomass sell RECs in excess of the actual megawatt-hours of electricity generated by such facility that
101 year. In order to comply with the RPS Program, each Phase I and Phase II Utility may use and retire the
102 environmental attributes associated with any existing owned or contracted solar, wind, falling water, or
103 biomass electric generating resources in operation, or proposed for operation, in the Commonwealth or
104 solar, wind, or falling water resources physically located within the PJM region, with such resource
105 qualifying as a Commonwealth-located resource for purposes of this subsection, as of January 1, 2020,
106 provided that such renewable attributes are verified as RECs consistent with the PJM-EIS Generation
107 Attribute Tracking System.

108 The RPS Program requirements shall be a percentage of the total electric energy sold in the
109 previous calendar year and shall be implemented in accordance with the following schedule:

a Phase I Utilities

Phase II Utilities

110

a	Year	RPS Program Requirement	Year	RPS Program Requirement
b	2021	6%	2021	14%
c	2022	7%	2022	17%
d	2023	8%	2023	20%
e	2024	10%	2024	23%
f	2025	14%	2025	26%
g	2026	17%	2026	29%
h	2027	20%	2027	32%
i	2028	24%	2028	35%
j	2029	27%	2029	38%
k	2030	30%	2030	41%
l	2031	33%	2031	45%
m	2032	36%	2032	49%
n	2033	39%	2033	52%
o	2034	42%	2034	55%
p	2035	45%	2035	59%
q	2036	53%	2036	63%
r	2037	53%	2037	67%
s	2038	57%	2038	71%
t	2039	61%	2039	75%
u	2040	65%	2040	79%
v	2041	68%	2041	83%

w	2042	71%	2042	87%
x	2043	74%	2043	91%
y	2044	77%	2044	95%
z	2045	80%	2045 and thereafter	100%
aa	2046	84%		
ab	2047	88%		
ac	2048	92%		
ad	2049	96%		
ae	2050 and thereafter	100%		

111 A Phase II Utility shall meet one percent of the RPS Program requirements in any given
112 compliance year with solar, wind, or anaerobic digestion resources of one megawatt or less located in the
113 Commonwealth, with not more than 3,000 kilowatts at any single location or at contiguous locations
114 owned by the same entity or affiliated entities and, to the extent that low-income qualifying projects are
115 available, then no less than 25 percent of such one percent shall be composed of low-income qualifying
116 projects.

117 Beginning with the 2025 compliance year and thereafter, at least 75 percent of all RECs used by a
118 Phase II Utility in a compliance period shall come from RPS eligible resources located in the
119 Commonwealth.

120 Any Phase I or Phase II Utility may apply renewable energy sales achieved or RECs acquired in
121 excess of the sales requirement for that RPS Program to the sales requirements for RPS Program
122 requirements in the year in which it was generated and the five calendar years after the renewable energy
123 was generated or the RECs were created. To the extent that a Phase I or Phase II Utility procures RECs
124 for RPS Program compliance from resources the utility does not own, the utility shall be entitled to recover
125 the costs of such certificates at its election pursuant to § 56-249.6 or subdivision A 5 d of § 56-585.1.

126 D. Each Phase I or Phase II Utility shall petition the Commission for necessary approvals to
127 procure zero-carbon electricity generating capacity as set forth in this subsection and energy storage
128 resources as set forth in subsection E. To the extent that a Phase I or Phase II Utility constructs or acquires
129 new zero-carbon generating facilities or energy storage resources, the utility shall petition the Commission
130 for the recovery of the costs of such facilities, at the utility's election, either through its rates for generation
131 and distribution services or through a rate adjustment clause pursuant to subdivision A 6 of § 56-585.1.
132 All costs not sought for recovery through a rate adjustment clause pursuant to subdivision A 6 of § 56-
133 585.1 associated with generating facilities provided by sunlight or onshore or offshore wind are also
134 eligible to be applied by the utility as a customer credit reinvestment offset as provided in subdivision A
135 8 of § 56-585.1. Costs associated with the purchase of energy, capacity, or environmental attributes from
136 facilities owned by the persons other than the utility required by this subsection shall be recovered by the
137 utility either through its rates for generation and distribution services or pursuant to § 56-249.6.

138 1. Each Phase I Utility shall petition the Commission for necessary approvals to construct, acquire,
139 or enter into agreements to purchase the energy, capacity, and environmental attributes of 600 megawatts
140 of generating capacity using energy derived from sunlight or onshore wind. If a Phase I Utility purchases
141 energy, capacity, and environmental attributes from solar, onshore, or offshore wind facilities owned by
142 persons other than such Phase I Utility and such purchase fails to deliver the energy, capacity, or
143 environmental attributes agreed to, then any mandatory threshold for generating capacity as outlined in
144 this subdivision for such Phase I Utility shall be reduced by an amount corresponding with the megawatt
145 deficiency by which the facility failed to perform for any year in which such facilities failed to meet the
146 output approved by the Commission.

147 a. By December 31, 2023, each Phase I Utility shall petition the Commission for necessary
148 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
149 environmental attributes of at least 200 megawatts of generating capacity located in the Commonwealth
150 using energy derived from sunlight or onshore wind, and 35 percent of such generating capacity procured
151 by December 31, 2023, and 50 percent of such generating capacity procured on or after January 1, 2024,
152 shall be from the purchase of energy, capacity, and environmental attributes from solar or onshore wind

153 facilities owned by persons other than the utility, with the remainder, in the aggregate, being from
154 construction or acquisition by such Phase I Utility.

155 b. By December 31, 2027, each Phase I Utility shall petition the Commission for necessary
156 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
157 environmental attributes of at least 200 megawatts of additional generating capacity located in the
158 Commonwealth using energy derived from sunlight or onshore wind, and ~~35~~ 50 percent of such generating
159 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar
160 or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate,
161 being from construction or acquisition by such Phase I Utility.

162 c. By December 31, 2030, each Phase I Utility shall petition the Commission for necessary
163 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
164 environmental attributes of at least 200 megawatts of additional generating capacity located in the
165 Commonwealth using energy derived from sunlight or onshore wind, and ~~35~~ 50 percent of such generating
166 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar
167 or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate,
168 being from construction or acquisition by such Phase I Utility.

169 d. Nothing in this subdivision 1 shall prohibit such Phase I Utility from constructing, acquiring, or
170 entering into agreements to purchase the energy, capacity, and environmental attributes of more than 600
171 megawatts of generating capacity located in the Commonwealth using energy derived from sunlight or
172 onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-580 and 56-
173 585.1.

174 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
175 approvals to (i) construct, acquire, or enter into agreements to purchase the energy, capacity, and
176 environmental attributes of 16,100 megawatts of generating capacity located in the Commonwealth using
177 energy derived from sunlight or onshore wind, which shall include 1,100 megawatts of solar generation
178 of a nameplate capacity not to exceed three megawatts per individual project and 35 percent of such
179 generating capacity procured by December 31, 2023, and 50 percent of such generating capacity procured

180 on or after January 1, 2024, shall be from the purchase of energy, capacity, and environmental attributes
181 from solar facilities owned by persons other than a utility, including utility affiliates and deregulated
182 affiliates and (ii) pursuant to § 56-585.1:11, construct or purchase one or more offshore wind generation
183 facilities located off the Commonwealth's Atlantic shoreline or in federal waters and interconnected
184 directly into the Commonwealth with an aggregate capacity of up to 5,200 megawatts. At least 200
185 megawatts of the 16,100 megawatts shall be placed on parking lots, previously mined sites, industrial
186 sites, and previously developed project sites.

187 a. By December 31, 2024, each Phase II Utility shall petition the Commission for necessary
188 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
189 environmental attributes of at least 3,000 megawatts of generating capacity located in the Commonwealth
190 using energy derived from sunlight or onshore wind, and ~~35~~ 50 percent of such generating capacity
191 procured shall be from the purchase of energy, capacity, and environmental attributes from solar or
192 onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate, being
193 from construction or acquisition by such Phase II Utility.

194 b. By December 31, 2027, each Phase II Utility shall petition the Commission for necessary
195 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
196 environmental attributes of at least 3,000 megawatts of additional generating capacity located in the
197 Commonwealth using energy derived from sunlight or onshore wind, and ~~35~~ 50 percent of such generating
198 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar
199 or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate,
200 being from construction or acquisition by such Phase II Utility.

201 c. By December 31, 2030, each Phase II Utility shall petition the Commission for necessary
202 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
203 environmental attributes of at least 4,000 megawatts of additional generating capacity located in the
204 Commonwealth using energy derived from sunlight or onshore wind, and ~~35~~ 50 percent of such generating
205 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar

206 or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate,
207 being from construction or acquisition by such Phase II Utility.

208 d. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
209 approvals to construct, acquire, or enter into agreements to purchase the energy, capacity, and
210 environmental attributes of at least 6,100 megawatts of additional generating capacity located in the
211 Commonwealth using energy derived from sunlight or onshore wind, and ~~35~~ 50 percent of such generating
212 capacity procured shall be from the purchase of energy, capacity, and environmental attributes from solar
213 or onshore wind facilities owned by persons other than the utility, with the remainder, in the aggregate,
214 being from construction or acquisition by such Phase II Utility.

215 e. Nothing in this subdivision 2 shall prohibit such Phase II Utility from constructing, acquiring,
216 or entering into agreements to purchase the energy, capacity, and environmental attributes of more than
217 16,100 megawatts of generating capacity located in the Commonwealth using energy derived from
218 sunlight or onshore wind, provided the utility receives approval from the Commission pursuant to §§ 56-
219 580 and 56-585.1.

220 3. Nothing in this section shall prohibit a utility from petitioning the Commission to construct or
221 acquire zero-carbon electricity or from entering into contracts to procure the energy, capacity, and
222 environmental attributes of zero-carbon electricity generating resources in excess of the requirements in
223 subsection B. The Commission shall determine whether to approve such petitions on a stand-alone basis
224 pursuant to §§ 56-580 and 56-585.1, provided that the Commission's review shall also consider whether
225 the proposed generating capacity (i) is necessary to meet the utility's native load, (ii) is likely to lower
226 customer fuel costs, (iii) will provide economic development opportunities in the Commonwealth, and
227 (iv) serves a need that cannot be more affordably met with demand-side or energy storage resources.

228 Each Phase I and Phase II Utility shall, at least once every year, conduct a request for proposals
229 for new solar and wind resources. Such requests shall quantify and describe the utility's need for energy,
230 capacity, or renewable energy certificates. The requests for proposals shall be publicly announced and
231 made available for public review on the utility's website at least 45 days prior to the closing of such request
232 for proposals. The requests for proposals shall provide, at a minimum, the following information: (a) the

233 size, type, and timing of resources for which the utility anticipates contracting; (b) any minimum
234 thresholds that must be met by respondents; (c) major assumptions to be used by the utility in the bid
235 evaluation process, including environmental emission standards; (d) detailed instructions for preparing
236 bids so that bids can be evaluated on a consistent basis; (e) the preferred general location of additional
237 capacity; and (f) specific information concerning the factors involved in determining the price and non-
238 price criteria used for selecting winning bids. A utility may evaluate responses to requests for proposals
239 based on any criteria that it deems reasonable but shall at a minimum consider the following in its selection
240 process: (1) the status of a particular project's development; (2) the age of existing generation facilities;
241 (3) the demonstrated financial viability of a project and the developer; (4) a developer's prior experience
242 in the field; (5) the location and effect on the transmission grid of a generation facility; (6) benefits to the
243 Commonwealth that are associated with particular projects, including regional economic development and
244 the use of goods and services from Virginia businesses; and (7) the environmental impacts of particular
245 resources, including impacts on air quality within the Commonwealth and the carbon intensity of the
246 utility's generation portfolio.

247 4. In connection with the requirements of this subsection, each Phase I and Phase II Utility shall,
248 commencing in 2020 and concluding in 2035, submit annually a plan and petition for approval for the
249 development of new solar and onshore wind generation capacity. Such plan shall reflect, in the aggregate
250 and over its duration, the requirements of subsection D concerning the allocation percentages for
251 construction or purchase of such capacity. Such petition shall contain any request for approval to construct
252 such facilities pursuant to subsection D of § 56-580 and a request for approval or update of a rate
253 adjustment clause pursuant to subdivision A 6 of § 56-585.1 to recover the costs of such facilities. Such
254 plan shall also include the utility's plan to meet the energy storage project targets of subsection E, including
255 the goal of installing at least 10 percent of such energy storage projects behind the meter. Such plan shall
256 also include a discussion of any issues related to performance, including any cost overruns, delays, or
257 safety or environmental issues on the part of any party with which such utility has entered into an
258 agreement to deliver energy, capacity, or environmental attributes for projects pursuant to this subsection.
259 In determining whether to approve the utility's plan and any associated petition requests, the Commission

260 shall determine whether they are reasonable and prudent and shall give due consideration to (i) the RPS
261 and carbon dioxide reduction requirements in this section, (ii) the promotion of new renewable generation
262 and energy storage resources within the Commonwealth, and associated economic development, and (iii)
263 fuel savings projected to be achieved by the plan. Notwithstanding any other provision of this title, the
264 Commission's final order regarding any such petition and associated requests shall be entered by the
265 Commission not more than six months after the date of the filing of such petition.

266 5. If, in any year, a Phase I or Phase II Utility is unable to meet the compliance obligation of the
267 RPS Program requirements or if the cost of RECs necessary to comply with RPS Program requirements
268 exceeds \$45 per megawatt hour, such supplier shall be obligated to make a deficiency payment equal to
269 \$45 for each megawatt-hour shortfall for the year of noncompliance, except that the deficiency payment
270 for any shortfall in procuring RECs for solar, wind, or anaerobic digesters located in the Commonwealth
271 shall be \$75 per megawatts hour for resources one megawatt and lower. The amount of any deficiency
272 payment shall increase by one percent annually after 2021. A Phase I or Phase II Utility shall be entitled
273 to recover the costs of such payments as a cost of compliance with the requirements of this subsection
274 pursuant to subdivision A 5 d of § 56-585.1. All proceeds from the deficiency payments shall be deposited
275 into an interest-bearing account administered by the Department of Energy. In administering this account,
276 the Department of Energy shall manage the account as follows: (i) 50 percent of total revenue shall be
277 directed to job training programs in historically economically disadvantaged communities; (ii) 16 percent
278 of total revenue shall be directed to energy efficiency measures for public facilities; (iii) 30 percent of
279 total revenue shall be directed to renewable energy programs located in historically economically
280 disadvantaged communities; and (iv) four percent of total revenue shall be directed to administrative costs.

281 For any project constructed pursuant to this subsection or subsection E, a utility shall, subject to a
282 competitive procurement process, procure equipment from a Virginia-based or United States-based
283 manufacturer using materials or product components made in Virginia or the United States, if reasonably
284 available and competitively priced.

285 E. To enhance reliability and performance of the utility's generation and distribution system, each
286 Phase I and Phase II Utility shall petition the Commission for necessary approvals to construct or acquire
287 new, utility-owned energy storage resources.

288 1. By December 31, 2035, each Phase I Utility shall petition the Commission for necessary
289 approvals to construct or acquire 400 megawatts of energy storage capacity. Nothing in this subdivision
290 shall prohibit a Phase I Utility from constructing or acquiring more than 400 megawatts of energy storage,
291 provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-585.1.

292 2. By December 31, 2035, each Phase II Utility shall petition the Commission for necessary
293 approvals to construct or acquire 2,700 megawatts of energy storage capacity. Nothing in this subdivision
294 shall prohibit a Phase II Utility from constructing or acquiring more than 2,700 megawatts of energy
295 storage, provided that the utility receives approval from the Commission pursuant to §§ 56-580 and 56-
296 585.1.

297 3. No single energy storage project shall exceed 500 megawatts in size, except that a Phase II
298 Utility may procure a single energy storage project up to 800 megawatts.

299 4. All energy storage projects procured pursuant to this subsection shall meet the competitive
300 procurement protocols established in subdivision D 3.

301 5. After July 1, 2020, at least 35 percent of the energy storage facilities placed into service shall
302 be (i) purchased by the public utility from a party other than the public utility or (ii) owned by a party
303 other than a public utility, with the capacity from such facilities sold to the public utility. By January 1,
304 2021, the Commission shall adopt regulations to achieve the deployment of energy storage for the
305 Commonwealth required in subdivisions 1 and 2, including regulations that set interim targets and update
306 existing utility planning and procurement rules. The regulations shall include programs and mechanisms
307 to deploy energy storage, including competitive solicitations, behind-the-meter incentives, non-wires
308 alternatives programs, and peak demand reduction programs.

309 F. All costs incurred by a Phase I or Phase II Utility related to compliance with the requirements
310 of this section or pursuant to § 56-585.1:11, including (i) costs of generation facilities powered by sunlight
311 or onshore or offshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or

312 Phase II Utility after July 1, 2020, (ii) costs of capacity, energy, or environmental attributes from
313 generation facilities powered by sunlight or onshore or offshore wind, or falling water, or energy storage
314 facilities purchased by the utility from persons other than the utility through agreements after July 1, 2020,
315 and (iii) all other costs of compliance, including costs associated with the purchase of RECs associated
316 with RPS Program requirements pursuant to this section shall be recovered from all retail customers in
317 the service territory of a Phase I or Phase II Utility as a non-bypassable charge, irrespective of the
318 generation supplier of such customer, except (a) as provided in subsection G for an accelerated renewable
319 energy buyer or (b) as provided in subdivision C 3 of § 56-585.1:11, with respect to the costs of an offshore
320 wind generation facility, for a PIPP eligible utility customer or an advanced clean energy buyer or
321 qualifying large general service customer, as those terms are defined in § 56-585.1:11. If a Phase I or
322 Phase II Utility serves customers in more than one jurisdiction, such utility shall recover all of the costs
323 of compliance with the RPS Program requirements from its Virginia customers through the applicable
324 cost recovery mechanism, and all associated energy, capacity, and environmental attributes shall be
325 assigned to Virginia to the extent that such costs are requested but not recovered from any system
326 customers outside the Commonwealth.

327 By September 1, 2020, the Commission shall direct the initiation of a proceeding for each Phase I
328 and Phase II Utility to review and determine the amount of such costs, net of benefits, that should be
329 allocated to retail customers within the utility's service territory which have elected to receive electric
330 supply service from a supplier of electric energy other than the utility, and shall direct that tariff provisions
331 be implemented to recover those costs from such customers beginning no later than January 1, 2021.
332 Thereafter, such charges and tariff provisions shall be updated and trued up by the utility on an annual
333 basis, subject to continuing review and approval by the Commission.

334 G. 1. An accelerated renewable energy buyer may contract with a Phase I or Phase II Utility, or a
335 person other than a Phase I or Phase II Utility, to obtain (i) RECs from RPS eligible resources or (ii)
336 bundled capacity, energy, and RECs from solar or wind generation resources located within the PJM
337 region and initially placed in commercial operation after January 1, 2015, including any contract with a
338 utility for such generation resources that does not allocate to or recover from any other customer of the

339 utility the cost of such resources. Such an accelerated renewable energy buyer may offset all or a portion
340 of its electric load for purposes of RPS compliance through such arrangements. An accelerated renewable
341 energy buyer shall be exempt from the assignment of non-bypassable RPS compliance costs pursuant to
342 subsection F, with the exception of the costs of an offshore wind generating facility pursuant to § 56-
343 585.1:11, based on the amount of RECs obtained pursuant to this subsection in proportion to the
344 customer's total electric energy consumption, on an annual basis. An accelerated renewable energy buyer
345 obtaining RECs only shall not be exempt from costs related to procurement of new solar or onshore wind
346 generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant
347 to subsections D and E, however, an accelerated renewable energy buyer that is a customer of a Phase II
348 Utility and was subscribed, as of March 1, 2020, to a voluntary companion experimental tariff offering of
349 the utility for the purchase of renewable attributes from renewable energy facilities that requires a
350 renewable facilities agreement and the purchase of a minimum of 2,000 renewable attributes annually,
351 shall be exempt from allocation of the net costs related to procurement of new solar or onshore wind
352 generation capacity, energy, or environmental attributes, or energy storage facilities, by the utility pursuant
353 to subsections D and E, based on the amount of RECs associated with the customer's renewable facilities
354 agreements associated with such tariff offering as of that date in proportion to the customer's total electric
355 energy consumption, on an annual basis. To the extent that an accelerated renewable energy buyer
356 contracts for the capacity of new solar or wind generation resources pursuant to this subsection, the
357 aggregate amount of such nameplate capacity shall be offset from the utility's procurement requirements
358 pursuant to subsection D. All RECs associated with contracts entered into by an accelerated renewable
359 energy buyer with the utility, or a person other than the utility, for an RPS Program shall not be credited
360 to the utility's compliance with its RPS requirements, and the calculation of the utility's RPS Program
361 requirements shall not include the electric load covered by customers certified as accelerated renewable
362 energy buyers.

363 2. Each Phase I or Phase II Utility shall certify, and verify as necessary, to the Commission that
364 the accelerated renewable energy buyer has satisfied the exemption requirements of this subsection for
365 each year, or an accelerated renewable energy buyer may choose to certify satisfaction of this exemption

366 by reporting to the Commission individually. The Commission may promulgate such rules and regulations
367 as may be necessary to implement the provisions of this subsection.

368 3. Provided that no incremental costs associated with any contract between a Phase I or Phase II
369 Utility and an accelerated renewable energy buyer is allocated to or recovered from any other customer of
370 the utility, any such contract with an accelerated renewable energy buyer that is a jurisdictional customer
371 of the utility shall not be deemed a special rate or contract requiring Commission approval pursuant to §
372 56-235.2.

373 H. No customer of a Phase II Utility with a peak demand in excess of 100 megawatts in 2019 that
374 elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive service
375 provider prior to April 1, 2019, shall be allocated any non-bypassable charges pursuant to subsection F
376 for such period that the customer is not purchasing electric energy from the utility, and such customer's
377 electric load shall not be included in the utility's RPS Program requirements. No customer of a Phase I
378 Utility that elected pursuant to subdivision A 3 of § 56-577 to purchase electric energy from a competitive
379 service provider prior to February 1, 2019, shall be allocated any non-bypassable charges pursuant to
380 subsection F for such period that the customer is not purchasing electric energy from the utility, and such
381 customer's electric load shall not be included in the utility's RPS Program requirements.

382 I. In any petition by a Phase I or Phase II Utility for a certificate of public convenience and
383 necessity to construct and operate an electrical generating facility that generates electric energy derived
384 from sunlight submitted pursuant to § 56-580, such utility shall demonstrate that the proposed facility was
385 subject to competitive procurement or solicitation as set forth in subdivision D 3.

386 J. Nothing in this section shall apply to any entity organized under Chapter 9.1 (§ 56-231.15 et
387 seq.).

388 K. The Commission shall adopt such rules and regulations as may be necessary to implement the
389 provisions of this section, including a requirement that participants verify whether the RPS Program
390 requirements are met in accordance with this section.

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